

OCT 15 2020
AFTER 4:00 P.M.

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF VENTURA**

11 WESTERN STATES PETROLEUM
ASSOCIATION, a California corporation,

12 Petitioner and Plaintiff,

13 v.

14 COUNTY OF VENTURA, a political subdivision
of the State of California; VENTURA COUNTY
15 BOARD OF SUPERVISORS; and DOES 1 through
20, inclusive,

16 Respondents and Defendants.
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Case No. _____

CEQA CASE

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY RELIEF**

[Pub. Res. Code § 21000, *et seq.*
(California Environmental Quality Act);
Code Civ. Proc. § 1085 (alternatively
1094.5)]

INTRODUCTION

1. The oil and gas industry has been operating in Ventura County for over 100 years. The industry is a positive force for the local community and its economy, helping to supply safe, reliable, and affordable energy under the most stringent environmental and public health protections in the nation.

2. Oil and gas production contributes approximately \$50 million to Ventura County each year and accounts for 2,000 jobs. These tax revenues fund vital community services like public schools, police departments, fire departments, and County public health services. In total, the industry annually generates approximately \$700 million in economic output and \$180 million in labor income.

3. Energy workers in Ventura County are made up of veterans, single parents, union members, and immigrants. The diverse workforce also boasts a variety of employees from different cultural, racial, and ethnic backgrounds.

4. Petitioner and Plaintiff WESTERN STATES PETROLEUM ASSOCIATION (“WSPA”) represents companies, including oil and gas producers in Ventura County, that account for the bulk of petroleum exploration, production, refining, transportation and marketing in the five western states of Arizona, California, Nevada, Oregon, and Washington. WSPA is dedicated to ensuring that Americans continue to have reliable access to petroleum products through policies that are socially, economically, and environmentally responsible. Its members deliver reliable and safe products that sustain our way of life and drive economic opportunity in local communities – including in Ventura.

5. Ventura County has turned a blind eye to the enormous economic value that the oil and gas industry brings to the County and its residents. On September 15, 2020, the County Board of Supervisors certified an Environmental Impact Report (“EIR”) for the Ventura County 2040 General Plan Update (“GPU”) and approved the GPU. The EIR is riddled with flaws, including a legally inadequate description of the environmental setting, incorporation of infeasible mitigation measures, unlawful oil and gas policies, improper piecemealing, and a flawed analysis of cumulative impacts. And while the GPU’s policies purport to “effectively and safely manage the exploration,

1 production, and drilling of oil and gas resources in Ventura County,” they actually present an all-out
2 assault on the oil and gas industry. The GPU would effectively phase out the production of oil and
3 gas in the County through the imposition of unduly restrictive and unlawful policies. The blowback
4 would be tremendous.

5 6. Shutting down oil and gas production in Ventura County would reduce local
6 economic activity by hundreds of millions of dollars, reduce tax revenue, and threaten thousands of
7 hard-working families with job losses. The County would be forced to cut spending for numerous
8 County programs and services such as law enforcement, fire prevention, social programs, and public
9 health services in the midst of a global pandemic when huge budget deficits loom for California and
10 all of its political subdivisions. This precipitous attack on the oil and gas industry is short-sighted
11 and will significantly increase carbon emissions, while failing to provide any public health benefits
12 to County residents or businesses.

13 7. Accordingly, WSPA brings this action to challenge the decisions of Respondents and
14 Defendants COUNTY OF VENTURA and VENTURA COUNTY BOARD OF SUPERVISORS to
15 certify the EIR for the GPU, adopt findings under the California Environmental Quality Act
16 (“CEQA”), and approve the GPU.

17 PARTIES

18 8. Petitioner WSPA is a California non-profit corporation and longstanding trade
19 association of energy companies that explore for, produce, refine, transport and market petroleum,
20 petroleum products, natural gas, and other energy supplies in California and four other western states,
21 including several oil and gas producers in the County of Ventura. WSPA is dedicated to ensuring
22 that Americans continue to have reliable access to petroleum products through policies that are
23 socially, economically, and environmentally responsible. WSPA’s principal offices are located at
24 1415 L Street, Suite 900, Sacramento, California, 95814.

25 9. Respondent COUNTY OF VENTURA, a political subdivision of the State of
26 California, is responsible for regulating and controlling land use in its territory, including
27 implementing and complying with the provisions of CEQA. The County is the “lead agency” and
28 project applicant for purposes of Public Resources Code Section 21067, with principal responsibility

1 for conducting environmental review of the proposed actions and complying with CEQA and other
2 state laws.

3 10. Respondent VENTURA COUNTY BOARD OF SUPERVISORS is the elected
4 decision-making body of the County. As the decision-making body, the Board is charged with the
5 responsibilities under CEQA for conducting a proper review of the GPU's environmental impacts
6 and granting the various approvals necessary for the GPU.

7 11. WSPA does not know the true names and capacities, whether individual, corporate,
8 associate, or otherwise, of Defendants and Respondents DOES 1 through 20, inclusive, and therefore
9 sue said parties under fictitious names. WSPA will amend this Petition and Complaint to show their
10 true names and capacities when the same have been ascertained.

11 **JURISDICTION AND VENUE**

12 12. This Court has jurisdiction over this action pursuant to California Code of Civil
13 Procedure sections 1085 (alternatively section 1094.5) and 526; and Public Resources Code section
14 21168.5 (alternatively section 21168).

15 13. Venue is proper in Ventura County Superior Court pursuant to Code of Civil
16 Procedure sections 393(b), 394(a) and 395 because Respondents in this action are the County of
17 Ventura and its Board of Supervisors, a local agency, and all the acts and omission occurred in
18 Ventura County.

19 14. WSPA has complied with Public Resources Code section 21167.5 by prior service of
20 a notice upon the County indicating its intent to file this Petition. WSPA served the notification on
21 October 13, 2020. Proof of Service of this notification, with the notification, is attached as Exhibit
22 A.

23 15. WSPA has elected to prepare the record of proceedings in the above-captioned
24 proceeding or to pursue an alternative method of record preparation pursuant to Public Resources
25 Code Section 21167.6(b)(2). Notification of the Election to Prepare the Administrative Record is
26 attached as Exhibit B.

27 16. WSPA has complied with the requirements of Public Resources Code section 21167.7
28 and Code of Civil Procedure section 388 by mailing a copy of this Petition to the California Attorney

1 General on October 15, 2020. A copy of the letter transmitting the Petition to the Attorney General
2 is attached as Exhibit C.

3 17. WSPA has performed any and all conditions precedent to filing this instant action and
4 has exhausted any and all administrative remedies to the extent required by law, including, but not
5 limited to, submitting extensive written comments objecting to the certification of the EIR and
6 approval of the GPU. All issues raised in this Petition were raised before the County by WSPA,
7 other members of the public, or public agencies prior to approval of the Project.

8 18. This Petition is timely filed within 30 days after Respondents' filing of a Notice of
9 Determination in accordance with Public Resources Code section 21167(c).

10 19. WSPA has no plain, speedy, or adequate remedy in the court of ordinary law because
11 WSPA and its members will be irreparably harmed by the ensuing damage caused by implementation
12 of the GPU and Respondents' violations of CEQA, as well as other aspects of state law. In the
13 absence of such remedies, the County's approval will remain in effect in violation of state law.

14 STANDING

15 20. WSPA has associational standing to bring this suit on behalf of its members because
16 more than one of those members will be directly, adversely, and imminently affected by certification
17 of the EIR and adoption of the GPU and thus would have standing to sue in their own right.¹ If the
18 EIR is not decertified and the GPU vacated and set aside, WSPA's members face immediate and
19 threatened injury. Furthermore, the interests that WSPA seeks to protect by way of this lawsuit are
20 germane to the organization's purpose. Specifically, WSPA is dedicated to addressing the wide
21 range of public policy issues that affect the petroleum industry, including general plans such as the
22 GPU that impose unreasonable and unlawful mandates on WSPA members. Finally, neither the
23 claims asserted, nor the relief requested requires an individual member of WSPA to participate in
24 this suit.

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28 ¹ A list of WSPA's member companies is available at: <https://www.wspa.org/about/>.

21. WSPA has an interest in this action because its members own and operate petroleum exploration and production operations in Ventura County, which are subject to the GPU. WSPA's members have been or will be impacted by the GPU.

STATEMENT OF FACTS

CEQA and General Plans

22. California law requires that each county and city in the state develop and adopt a general plan. (Gov. Code § 65300.) The general plan consists of a statement of development policies and includes a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. It is a comprehensive long-term plan for the physical development of the county or city. In this sense, it is a “blueprint” for development.

23. By statute, the general plan is required to be updated “periodically.” (Gov. Code § 65103(a).) While there is no requirement for how often to update the general plan, the planning period has traditionally been 15-20 years.

24. General plans must include seven elements: land use, transportation, conservation, noise, open space, safety, and housing.

25. Because general plans govern the type and location of new development, new or amended general plans may lead to significant changes in the environment. CEQA requires cities and counties to study these potential environmental impacts as part of the adoption or update process. (14 Cal. Code Regs. § 15378.) Where those impacts may be significant, the city or county must prepare an environmental impact report (“EIR”). The primary purpose of an EIR is to inform decision-makers and the public of the potential significant environmental effects of a proposal and possible ways to reduce or avoid any significant environmental effects. (*Id.* § 15002(a)(1); *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564 [“Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’”].) This information is intended to enable environmental considerations to influence policy development, thereby ensuring that the general plan’s policies will address potential environmental impacts and the means to avoid them.

1 **County Prepares the Draft EIR and GPU**

2 26. The last time the County had updated its General Plan was in 2005. Accordingly, in
3 2015, the County began the process for updating its General Plan. When originally announced, the
4 update to the General Plan was intended to include an update to the General Plan's Housing Element.
5 However, the County subsequently decided to treat the Housing Element update as a separate,
6 unrelated project, which has proceeded concurrently.

7 27. On January 14, 2019, acting as CEQA lead agency, the County of Ventura, Resource
8 Management Agency, Planning Division (the "County") prepared and distributed a Notice of
9 Preparation. The purpose of the Notice of Preparation was to request that interested persons assist
10 the County by identifying significant environmental issues, mitigation measures, and the range of
11 reasonable alternatives that should be addressed in the EIR.

12 28. Comments were received at a scoping meeting held at the County Government Center
13 on January 30, 2019, and additional comments were submitted directly to the County.

14 29. The County published a Notice of Availability ("NOA") of the Draft EIR on January
15 9, 2020 announcing that the Draft EIR would be available for public review on January 13, 2020.
16 The purpose of an NOA is to call attention to an EIR and invite interested persons to review and
17 provide comments on significant environmental issues, mitigation measures, and range of reasonable
18 alternatives addressed in the EIR.

19 30. On January 13, 2020, the County made the GPU and the Draft EIR available to the
20 public.

21 31. The GPU is comprised of two primary documents: one containing the goals, policies,
22 and implementation programs (sometimes referred to as the "Policy Document"), and a Background
23 Report, which summarizes the County's existing environmental and regulatory setting and describes
24 a wide range of topics including demographics, public facilities, resources, etc.² The Background
25

26 ² The County previously published draft versions of the Background Report in March 2017, October
27 2017, and January 2018. The County re-published the Background Report on January 13, 2020 with
28 an errata sheet that provided details of revisions that were made to the document. Some of the
revisions included updates to the Wildfires History Map to reflect wildfires in the County through
2018.

1 Report is also used as the “environmental setting” section for the Draft EIR. (14 Cal. Code Regs.
2 § 15125 [an EIR must describe existing environmental conditions in the vicinity of the proposed
3 project, which is referred to as the “environmental setting” for the project].) The Background Report
4 is over 1,000 pages long.

5 32. There were over 400 new goals, policies, and programs that were added to the GPU.
6 In addition, more than half of the prior 2005 General Plan goals, policies, and programs were carried
7 over into the GPU.

8 33. The GPU contained a set of Oil and Gas Policies that were purportedly included to
9 “effectively and safely manage the exploration, production, and drilling of oil and gas resources in
10 Ventura County” (referred to herein as the “Oil and Gas Policies”). These Oil and Gas Policies
11 include, but are not limited to, the following:

- 12 • **COS-7.2** – The County shall require new discretionary oil wells to be located a
13 minimum of 1,500 feet from residential dwellings and 2,500 from any school.
- 14 • **COS-7.4** – The County shall require discretionary development for oil and gas
15 exploration and production to use electrically-powered equipment from 100 percent
16 renewable sources and cogeneration, where feasible, to reduce air pollution and
17 greenhouse gas emissions from internal combustion engines and equipment.
- 18 • **COS-7.6** – The County shall evaluate discretionary development to identify any
19 abandoned oil and gas wells on the project site.
- 20 • **COS-7.7** – The County shall require new discretionary oil wells to use pipelines to
21 convey oil and produced water; oil and produced water shall not be trucked.
- 22 • **COS-7.8** – The County shall require that gases emitted from all new discretionary oil
23 and gas wells shall be collected and used or removed for sale or proper disposal. Flaring
24 or venting shall only be allowed in cases of emergency or for testing purposes.

25 34. However, as alleged herein, the Oil and Gas Policies would have the effect of
26 eliminating oil and gas exploration and production in Ventura through the adoption of these unduly
27 restrictive and unlawful policies.

1 **The County Receives Comments on the Draft EIR**

2 35. The Draft EIR and GPU were available for public review from January 13, 2020 to
3 February 27, 2020. During the 45-day comment period, letters and email correspondence were
4 received from numerous public agencies, organizations, and individuals. Approximately 314
5 commenters submitted comments during this period.

6 36. On February 24, 2020, one of WSPA's member companies, Aera Energy, LLC
7 ("Aera"), submitted extensive comments on the Draft EIR. Aera Energy is the largest onshore oil
8 and gas producer in the County, as well as its largest taxpayer. Aera commented that several GPU
9 policies are infeasible or preempted. For instance, the greenhouse gas emission analysis relies upon
10 several policies that are preempted by state or federal law, violate existing private property rights,
11 and are simply infeasible. These included several of the Oil and Gas Policies such as Policies COS-
12 7.2, 7.3, 7.4, and 7.7, and implementation program M (oil and gas operations tax).

13 37. Aera commented that Policies COS-7.7 and 7.8 are preempted, as a local agency
14 cannot eliminate the use of trucking of oil or limit flaring to County-defined instances of "testing"
15 or "emergency." Those activities are governed by state and federal law. Aera commented that taking
16 credit for such policies that are unlawful or that are infeasible results in an erroneous analysis, not
17 based upon substantial evidence. (See, e.g., *Fed. of Hillside & Canyon Ass'ns v. City of L.A.* (2000)
18 83 Cal.App.4th 1252, 1261 [mitigation measures must be enforceable].) Aera further commented
19 that the Draft EIR failed to adequately consider whether the GPU's individual impacts, when
20 considered in the context of other projects proposed within the County, the region, and the individual
21 incorporated cities within the County, results in cumulatively considerable environmental impacts.
22 Finally, Aera commented that the Draft EIR ignored the foreseeable adverse impacts associated with
23 large scale installation of oil and gas pipelines, which include soils/geology, hydrology and water
24 quality, cultural and hazards impacts. (See *Laurel Heights Improvement Ass'n v. Regents of Univ.*
25 *of Cal.* (1988) 47 Cal.3d 376, 396 [EIR must analyze any action if it is a reasonable, foreseeable
26 consequence of the project].) Aera commented that none of the proposed mitigation measures reduce
27 these potentially significant impacts to less than significant levels.

1 38. WSPA submitted timely comments on February 26, 2020 and raised numerous
2 substantive issues with the Draft EIR, including echoing Aera's comments that several of the Oil and
3 Gas Policies were infeasible, preempted by state and/or federal law, and not based on substantial
4 evidence. WSPA also commented that the County impermissibly buried the EIR's description of the
5 environmental setting in a 1,000+ page appendix (the Background Report). This impeded the
6 public's ability to fully assess the GPU's significant environmental impacts in contravention of
7 CEQA. WSPA further commented that the EIR failed to analyze the potential for the Oil and Gas
8 Policies to increase greenhouse gas emissions by increasing the state's demand for foreign oil.
9 Finally, WSPA commented that the County improperly prepared an EIR before the Housing
10 Element³ was completed, which resulted in improper piecemealing and project segmentation. CEQA
11 mandated lead agencies to analyze the "whole of an action" that may result in a direct or reasonably
12 foreseeable indirect impact. (14 Cal. Code Regs. § 15378(a); *Tuolumne Cnty. Citizens for*
13 *Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1222.)

14 39. On February 28, 2020, the California Department of Conservation, Geologic Energy
15 Management Division ("CalGEM") also submitted comments on the Draft EIR. CalGEM
16 commented that the agency already regulates many of the areas that the GPU seeks to regulate. For
17 instance, CalGEM commented that General Plan 6.10 Implementation Program L requires ongoing
18 County evaluation of potential effects from well stimulation treatment and thermal enhanced
19 recovery, but that CalGEM already oversees well stimulation treatment and underground injection
20 control. CalGEM informed the County that "under the Safe Drinking Water Act, the U.S.
21 Environmental Protection Agency has delegated primacy authority over oil and gas injection wells
22 to the CalGEM [underground injection control] Program." CalGEM further commented that Oil and
23 Gas Policy COS-7.8 requires "gases emitted from all new discretionary oil and gas wells shall be
24 collected and used or removed for sale or proper disposal," but that Public Resources Code section
25 3300 already declares that "unreasonable waste of natural gas" is unlawful. Finally, CalGEM

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27 ³ Since 1969, the state has mandated that all California cities, towns and counties plan for the
28 housing needs of residents, regardless of income. This state mandate is called the Housing Element
and Regional Housing Needs Allocation, or RHNA. (Gov. Code § 65584.) California's local
governments meet this requirement by adopting housing plans as part of their general plan.

1 commented that Oil and Gas Policy COS-7.6 indicates that the County “shall evaluate discretionary
2 development to identify any abandoned oil and gas wells on the project site,” but that Public
3 Resources Code section 3208.1 already “establishes well re-abandonment responsibility when a
4 previously plugged and abandoned well will be impacted by planned property development or
5 construction activities.”

6 **County Publishes the Final EIR**

7 40. On July 2, 2020, the County published a Final EIR for public review. The Final EIR
8 identified significant and unavoidable environmental impacts in the following resource areas:
9 Agriculture and Forestry Resources; Air Quality; Biological Resources; Cultural, Tribal, and
10 Paleontological Resources; Greenhouse Gas Emissions; Hazards, Hazardous Materials, and
11 Wildfire; Mineral and Petroleum Resources; Noise and Vibration; Public Services and Recreation;
12 Transportation and Traffic; and Utilities.

13 41. In July 2020, the South Coast Association of Governments adopted the County’s
14 Regional Housing Needs Allocation (“RHNA”), which allocates a given portion of California’s
15 housing need to the County. The County is obligated to revise its General Plan and Zoning
16 Ordinances to accommodate that growth to the extent that it exceeds the General Plan’s
17 assumptions. The County has failed to account for the RHNA in the Project-level or cumulative
18 impact analysis in the EIR.

19 **Planning Commission Holds Public Hearings to Consider Certification of the Final EIR and** 20 **Adoption of the GPU**

21 42. On July 16, 2020, the Planning Commission held a public hearing to consider and
22 make recommendations to the Board of Supervisors regarding adoption and approval of the GPU
23 and GPU Background Report and certification of the Final EIR. (Planning Division Case Number
24 PL17-0141). In contravention of its obligation to independently review and make a recommendation
25 to the Board of Supervisors regarding the General Plan, the Planning Commission ignored
26 conclusions in the Final EIR recommending additional mitigation measures to reduce impacts to
27 mineral resources. Instead, the Planning Commission approved the General Plan policies previously
28 proposed by the Board of Supervisors. The Planning Commission ultimately made these

1 recommendations to the Board of Supervisors in advance of their public hearing scheduled for
2 September 1, 2020.

3 43. On September 1, 2020, the Board of Supervisors held a public hearing to consider the
4 County's recommendation. Throughout the process, the County failed to conduct meaningful public
5 outreach, by providing newly published documents shortly before hearings, failing to identify
6 changes that were made, spreading necessary information among numerous appendices, and failing
7 to provide documents that were translated into Spanish. During the hearing, the Board of Supervisors
8 introduced new policies that substantially modified the General Plan, and that were not previously
9 considered by the Planning Commission. The Board of Supervisors subsequently continued the
10 public hearing to September 15, 2020. The Board of Supervisors did not accept public comment
11 during the September 15 public hearing.

12 44. During the September 15, 2020 public hearing, the Board of Supervisors voted to
13 certify the Final EIR and adopt the GPU, as modified by the Board. The Board of Supervisors signed
14 the Notice of Determination on September 15, 2020 and filed it with the Governor's Office of
15 Planning & Research, State Clearinghouse on September 16, 2020, and with the County Clerk on
16 September 17, 2020.

17 45. The GPU takes effect 30 days after the Board of Supervisors' adoption. Accordingly,
18 the GPU will take effect on or about October 15, 2020.

19 **FIRST CAUSE OF ACTION**

20 **Violations of CEQA – Inadequate EIR**

21 **(Public Resources Code § 21000, *et seq.*)**

22 46. WSPA realleges and incorporates by reference the foregoing paragraphs as though
23 fully set forth herein.

24 47. CEQA requires the lead agency for a project to prepare an EIR that complies with the
25 requirements of the statute. The lead agency must also provide for public review and comment on
26 the project and associated environmental documentation. An EIR must provide an adequate project
27 description and sufficient environmental analysis such that decision-makers can intelligently
28 consider environmental consequences when acting on the proposed project.

1 48. Respondents committed a prejudicial abuse of discretion and failed to proceed in a
2 manner required by law by certifying and relying on an EIR that fails to meet the requirements of
3 CEQA.

4 49. **Inadequate Project Description.** CEQA requires that an EIR provide an accurate,
5 stable, and finite project description. (*Cnty. of Inyo v. City of L.A.* (1977) 71 Cal.3d 185, 199.)
6 Generally, an adequate EIR must be “prepared with a sufficient degree of analysis to provide
7 decision-makers with information which enables them to make a decision which intelligently takes
8 account of environmental consequences.” (*Dry Creek Citizens Coalition v. Cnty. of Tulare* (1999)
9 70 Cal.App.4th 20, 26.)

10 50. The EIR fails to provide a legally adequate project description. For example, the
11 EIR’s project description is impermissibly vague; fails to identify where new land use designations
12 will be applied; fails to identify and describe the policies adopted by the GPU in adequate levels of
13 detail; fails to describe what each new GPU element will actually accomplish; fails to identify what
14 buildout of the plan area would be; and excludes any meaningful description of the implementation
15 measures, actions, and programs necessary to carry out the GPU.

16 51. **Failure to Properly Describe the Environmental Setting.** An EIR must describe
17 existing environmental conditions in the vicinity of the proposed project, which is referred to as “the
18 environmental setting” for the project. (14 Cal. Code Regs. § 14125.) This description of existing
19 environmental conditions normally serves as the “baseline” for measuring the changes to the
20 environment that will result from the project and for determining whether those environmental
21 effects are significant. (*Id.* §§ 15125, 15126.2(a).)

22 52. The EIR’s description of the environmental setting and baseline is inadequate and
23 inaccurate, including its description of existing environmental conditions concerning air quality,
24 aesthetics, biological resources, greenhouse gas emissions, energy, geologic hazards, hazards and
25 hazardous materials, land use, mineral resources, and population and housing.

26 53. The EIR impermissibly buries description of the existing environmental and
27 regulatory setting in the 1,000+ page Background Report appendix, in direct contravention of
28 CEQA’s mandate. Information “scattered here and there in EIR appendices,” or a report “buried in

1 an appendix,” is not a substitute for a “good faith, reasoned analysis . . .” (*California Oak Foundation*
2 *v. City of Santa Clarita* (2005) 133 Cal.App.4th 1219, 1239.) Even the Background Report appended
3 to the Draft EIR fails to adequately describe existing environmental and regulatory conditions.

4 54. Moreover, the EIR’s description of the environmental setting cannot be any longer
5 than necessary to provide an understanding of the significant effects of the project and the
6 alternatives analyzed in the EIR. (14 Cal. Code Regs. § 15125(a).) The description of the
7 environmental setting is over 1,000 pages long and far exceeds what is necessary to understand the
8 project’s significant effects.

9 55. **Failure to Adequately Analyze and Disclose the GPU’s Significant**
10 **Environmental Impacts and Support Conclusions Regarding Environmental Impacts with**
11 **Substantial Evidence.** CEQA requires that an EIR describe the proposed project’s significant
12 environmental effects; each such effect must be revealed and fully analyzed in the EIR. (Pub. Res.
13 Code §§ 21002.1, 21100(b); 14 Cal. Code Regs. § 15126.2(s).) Significant effect on the environment
14 refers to substantial, or potentially substantial, adverse changes in physical conditions. (Pub. Res.
15 Code §§ 21100(d), 21060.6, 21068.) The CEQA Guidelines further require that in discussing the
16 environmental effects of a project, an EIR should contain “a sufficient degree of analysis to provide
17 decisionmakers with information which enables them to make a decision which intelligently takes
18 account of environmental consequences.” (14 Cal. Code Regs. § 15151.) CEQA requires that
19 substantial evidence in the administrative record support all of the EIR’s conclusions.

20 56. Respondents violated CEQA by certifying an EIR that fails to adequately analyze and
21 disclose the GPU’s environmental impacts and fails to support conclusions regarding environmental
22 impacts with substantial evidence, this includes but is not limited to:

23 a. Failure to adequately analyze and disclose **air quality impacts**, especially
24 impacts associated with implementation of the GPU’s Oil and Gas Policies. In addition, the EIR fails
25 to analyze or disclose that these policies are preempted by state or federal law, violate existing private
26 property rights, and are infeasible. The EIR fails to adequately analyze and disclose the GPU’s air
27 quality impacts associated with favoring imported oil over oil produced in Ventura County, which
28 will deteriorate air quality.

1 b. Failure to adequately analyze and disclose impacts on **biological resources**,
2 including impacts related to wildlife nursery sites, habitat conservation plans, and natural community
3 conservation plans.

4 c. Failure to adequately analyze and disclose impacts on **energy**, including
5 failure to qualitatively evaluate whether the GPU will result in inefficient and wasteful energy
6 consumption, and whether the GPU will conflict with state or local plans.

7 d. Failure to adequately analyze and disclose the GPU's impacts on **greenhouse**
8 **gas emissions**, especially impacts associated with implementation of the GPU's Oil and Gas Policies.
9 In addition, the EIR fails to analyze or disclose that these policies are preempted by state or federal
10 law, violate existing private property rights, and are infeasible. The EIR fails to acknowledge,
11 calculate, and disclose the increased greenhouse gas emissions that would result from the loss of
12 Ventura County crude development opportunities. The EIR also incorrectly analyzes and calculates
13 greenhouse gas emissions generated by the oil and gas industry, while failing to properly analyze and
14 disclose greenhouse emissions from stationary sources in non-oil and gas industrial sectors, including
15 emissions from paper mills.

16 e. Failure to adequately analyze and disclose the GPU's **hazards and hazardous**
17 **materials impacts**. The EIR fails to support with substantial evidence the conclusion that Policies
18 HAZ-5.2, HAZ 5.5, HAZ-5.8, and HAZ 7.1 and County Implementation Programs K and L will
19 reduce impacts to less than significant levels. The EIR fails to analyze or disclose the alleged impact
20 of existing trucking of oil and gas products with regard to hazards or hazardous materials.
21 Furthermore, the EIR does not analyze or disclose potential impacts associated with constructing and
22 operating new oil and gas pipelines.

23 f. Failure to adequately analyze and disclose the GPU's impacts on hydrology
24 **and water quality**, including failure to support its conclusions regarding water quality and overdraft
25 with substantial evidence. The EIR does not analyze or disclose the foreseeable adverse
26 consequences associated with large scale construction, installation, and operation of oil and gas
27 pipelines on hydrology and water quality.

1 g. Failure to adequately analyze and disclose the GPU's impacts on land use,
2 including the Housing Element. The EIR fails to account for the actual growth for which the County
3 must play. The EIR also failed to consider the Housing Element in its cumulative impact analysis,
4 despite its concurrent development and foreseeable content.

5 h. Failure to adequately disclose and analyze the GPU's impacts to **mineral**
6 **resources**, especially impacts associated with implementation of the GPU's Oil and Gas Policies. In
7 addition, the EIR fails to analyze or disclose that these policies are preempted by state or federal law,
8 violate existing private property rights, and are infeasible. Substantial evidence does not support
9 Respondents' conclusion that the GPU's Oil and Gas Policies are justified by a need to protect the
10 environment or human health, for example on the lack of justification for the setbacks imposed
11 between the drilling of new wells and residences.

12 i. Failure to adequately analyze and disclose the GPU's impacts associated with
13 **noise and vibration**, including failure to support with substantial evidence the conclusion that oil
14 supply facilities are major industrial sources of noise. The EIR's assessment of operational noise
15 fails to analyze or disclose the potential significant increases in traffic associated with the new RHNA
16 allocation in the region and state housing legislation and policies.

17 j. Failure to adequately analyze and disclose the GPU's impacts associated with
18 **population and housing**, including by improperly splitting off the Housing Element Update (causing
19 piecemealing of the CEQA analysis) and failing to consider the RHNA housing allocation announced
20 by SCAG. The EIR also fails to analyze the housing impacts that will result from the setback
21 requirements under Policy COS-7.2.

22 k. Failure to adequately analyze and disclose the GPU's impacts associated with
23 **transportation and traffic**, including failing to support with substantial evidence the conclusion that
24 the GPU's policy addressing flaring and trucking associated with new discretionary oil and gas wells
25 would result in a potential reduction of vehicle miles traveled ("VMT").

26 l. Failure to adequately analyze or disclose the GPU's **cumulative impacts**
27 related to air quality, greenhouse gas emissions, noise, traffic, aesthetics, mineral resources, and
28 biological impacts among others. The County also failed to analyze or disclose the GPU's cumulative

1 impacts by impermissibly piecemealing its analysis in the EIR. The purpose of the cumulative
2 impacts analysis is to avoid considering projects in a vacuum, because failure to consider cumulative
3 harm may risk environmental disaster. *Whitman v. Bd. of Supervisors* (1979) 88 Cal.App.3d 397,
4 408. Without this analysis, piecemeal approval of several projects with related impacts will lead to
5 severe environmental harm. *San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus* (1994)
6 27 Cal.App.4th 713, 720. The County has impermissibly piecemealed the GPU from its concurrent
7 Zoning Code text amendments to Article 7, Section 8107-5 of the Non-Coastal Zoning Ordinance,
8 and Article 5, Section 8175-5.7 of the Coastal Zoning Ordinance. Those amendments modify
9 permitting requirements for new oil and gas exploration and production operations, and the EIR
10 expressly anticipates those amendments to the Zoning Code. Yet the County has made no effort to
11 include cumulative impacts from the Zoning Code amendments in the EIR. The County's improper
12 piecemealing has further deprived the public of its right to informed review of the EIR and GPU.

13 57. **Failure to Adopt Feasible Mitigation Measures.** An EIR must propose and
14 describe mitigation measures to minimize the significant environmental effects identified in the EIR.
15 (Pub. Res. Code §§ 21002.1(a), 21100(b)(3); 14 Cal. Code Regs. § 15126.4.) The requirement that
16 EIRs identify mitigation measures implements CEQA's policy that agencies adopt feasible measures
17 when approving a project to reduce or avoid its significant environmental effects. (Pub. Res. Code
18 §§ 21002, 21081(a).)

19 58. Respondents failed to adopt feasible mitigation measures to reduce potentially
20 significant environmental effects.

21 59. The EIR fails to adopt feasible mitigation measures to reduce impacts to mineral
22 resources, greenhouse gas emissions, and air quality, including but not limited to impacts associated
23 with implementation of the GPU's Oil and Gas Policies. Respondents admit that impacts to mineral
24 and petroleum resources, including impacts caused by the Oil and Gas Policies, will be significant
25 but fail to adopt feasible mitigation measures to reduce those impacts to less than significant levels.

26 60. Respondents conclude that proposed mitigation measures to reduce impacts to
27 mineral and petroleum resources are infeasible but fail to support those conclusions with substantial
28 evidence. For instance, Respondents lack substantial evidence that the mitigation measure PR-1,

1 as applied to the setback restrictions in Policy COS-7.2, mitigation measure PR-2, as applied to
2 Policy COS-7.7, or mitigation measure PR-3, as applied to Policy COS-7.8, could reduce the
3 protection of human health and the environment.

4 61. The EIR further fails to adopt feasible measures to mitigate greenhouse gas
5 emissions and air quality impacts, including impacts associated with implementation of the GPU's
6 Oil and Gas Policies.

7 62. **Adoption of Inadequate and Infeasible Mitigation Measures.** An EIR must
8 describe feasible mitigation measures that could minimize the project's significant adverse impacts.
9 (14 Cal. Code Regs. § 15126.4(a)(1).) Lead agencies must avoid remote, ineffective, and speculative
10 mitigation measures. (*Fed. of Hillside & Canyon Ass'ns, supra*, 83 Cal.App.4th at p. 1260.)
11 Moreover, it is ordinarily inappropriate to defer formulation of a mitigation measure to the future.
12 (14 Cal. Code Regs. § 15126.4(a)(1)(b).) Respondents have adopted inadequate and infeasible
13 mitigation measures.

14 63. The EIR fails to disclose and consider that several mitigation measures are infeasible
15 because they are preempted by federal, state, and/or local law and/or cannot be carried out without
16 unlawfully impairing vested property rights and cannot be enforced. (See, e.g., *Fed. of Hillside &*
17 *Canyon Ass'ns, supra*, 83 Cal.App.4th at p. 1261 [mitigation measures must be enforceable].)

18 64. **Failure to Adequately Respond to Comments.** A CEQA lead agency must evaluate
19 comments on environmental issues received from persons who reviewed and commented on the EIR
20 during the public comment period, and the CEQA lead agency must prepare written responses to
21 such comments. (14 Cal. Code Regs. § 15088(a).) The written response must describe the
22 disposition of significant environmental issues raised. (*Id.*, § 15088(c).) When the CEQA lead
23 agency's position is at variance with recommendations and objections raised in the comments, the
24 responses to comments must address such recommendations and objections in detail, and the
25 responses must explain why specific comments and suggestions were not accepted. (*Id.*) Conclusory
26 statements unsupported by factual information will not suffice. (*Id.*)

27 65. The public, including WSPA, submitted numerous comments to the County
28 throughout the environmental review process. Yet, the County either ignored these comments or

1 glossed over their substance with conclusory responses. For example, the County failed to
2 adequately address Petitioners' comments regarding the insufficiency of the Project Description;
3 issues of preemption; and the infeasibility of various policies, alternatives, mitigation measures, and
4 goals.

5 **66. Failure to Recirculate the EIR.** CEQA requires that if significant new information
6 is added to an EIR after a draft EIR is prepared, but before certification of the final EIR, an amended
7 EIR must be recirculated for public review and comment. (Pub. Res. Code § 21092.1; 14 Cal. Code
8 Regs. § 15088.5; *Vineyard Area Citizens for Residential Growth v. City of Rancho Cordova* (2007)
9 40 Cal.4th 412, 414.)

10 **67. Respondents failed to recirculate the Draft EIR despite inclusion of significant new**
11 **information in the Final EIR.** For example, the County included new oil and gas information, data,
12 calculations, and analyses. The County also included significant new information regarding the
13 greenhouse gas inventory and forecast.

14 **68. Recirculation is further required because the EIR omitted key information necessary**
15 **to determine what the GPU's potentially significant impacts would be.** (*Mountain Lion Coalition v.*
16 *Fish & Game Comm.* (1989) 214 Cal.App.3d 1043, 1046-47.)

17 **69. Respondents have also failed to revise the EIR to add missing required information,**
18 **address legal deficiencies, and correct false and unsupported impact analyses.** Accordingly, the EIR
19 is fundamentally flawed and must be recirculated. (14 Cal. Code Regs. § 15088.5.)

20 **70. As a result of the foregoing defects and others according to proof, the EIR is legally**
21 **defective and Respondents have failed to comply with CEQA's procedural requirements.** By
22 certifying an EIR that failed to comply with CEQA's mandates, Respondents committed a prejudicial
23 abuse of discretion, failed to proceed in the manner required by law, and acted without substantial
24 evidentiary support. Accordingly, the Court should issue a writ of mandate directing Respondents
25 to set aside certification of the EIR and approval of the GPU.

1 **SECOND CAUSE OF ACTION**

2 **Violations of CEQA – Failure to Substantially Support Factual Findings**

3 **(Public Resources Code § 21000, *et seq.*)**

4 71. WSPA realleges and incorporates by reference the foregoing paragraphs as though
5 fully set forth herein.

6 72. CEQA requires that a lead agency's findings for the approval of a project be supported
7 by substantial evidence in the record. (14 Cal. Code Regs. § 15091.) CEQA further requires that a
8 lead agency provide an explanation of how evidence in the record supports the conclusions it has
9 reached. As a result of the inadequacies in the environmental analysis identified above, the findings
10 adopted by Respondents are not supported by substantial evidence as required by CEQA.

11 73. Respondents violated CEQA by adopting findings that are inadequate as a matter of
12 law as they are not supported by substantial evidence in the record, including but not limited to the
13 following:

- 14 a. Findings supporting the GPU's Oil and Gas Policies.
15 b. Findings that recirculation of the Draft EIR was not required.
16 c. Findings that proposed mitigation measures and alternatives to the GPU that
17 would have avoided or lessened the significant impacts of the GPU were
18 infeasible.
19 d. Findings that certain environmental impacts would be less than significant or
20 that adopted mitigation measures would avoid or lessen the GPU's significant
21 effects on the environment.

22 74. Respondents' findings fail to reflect the independent judgment of Respondents.

23 75. As a result of the foregoing defects and others according to proof, Respondents
24 committed a prejudicial abuse of discretion, failed to proceed in the manner required by law, and
25 acted without substantial evidentiary support by making determinations or adopting findings that do
26 not comply with the requirements of CEQA and approving the GPU in reliance thereon.
27 Accordingly, Respondents' certification of the Final EIR and approval of the GPU must be set aside.

1 **THIRD CAUSE OF ACTION**

2 **(Petition for Writ of Traditional Mandate Under Code of Civil Procedure Section 1085 or**
3 **Alternatively under Section 1094.5)**

4 76. WSPA realleges and incorporates by reference the foregoing paragraphs as though
5 fully set forth herein.

6 77. WSPA seeks a writ of traditional mandate pursuant to Code of Civil Procedure
7 Section 1085, or alternatively Section 1094.5. The adoption of the GPU is preempted because the
8 County is preempted from intruding upon the state's exclusive jurisdiction over certain parts of oil
9 and gas regulations.

10 78. California has adopted numerous statutes and regulations that comprehensively
11 regulate virtually all aspects of oil and gas operations. Oil and gas operations are specifically
12 governed by Division 3 of the Public Resources Code (Pub. Res. Code § 3000, *et seq.*) and its
13 implementing regulations (14 Cal. Code Regs. § 1712, *et seq.*) By and through this all-encompassing
14 statutory and regulatory scheme, the State of California, through CalGEM, has exclusive jurisdiction
15 over the field of oil and gas operations, methods, and procedures to the exclusion of local legislation.

16 79. The GPU impermissibly attempts to indirectly prohibit or impair oil and gas
17 subsurface operations by imposing restrictive regulations. This includes, but is not limited to, the
18 GPU Oil and Gas Policies and General Plan 6.10 Implementation Program L ("Program L").

19 80. The Attorney General has concluded that a conflict arises whenever local government
20 attempts to "exercise control over subsurface activities," whether "directly or indirectly." (59
21 Ops.Cal.Atty. Gen 461, 478; *Desert Turf Club v. Bd. of Supervisors* (1956) 141 Cal.App.2d 446,
22 452.)

23 81. The GPU Oil and Gas Policies are preempted by federal and state law, providing that
24 CalGEM has exclusive jurisdiction to regulate the drilling, operation, maintenance, and
25 abandonment of oil, gas, and geothermal wells, and attendant facilities. CalGEM further has
26 exclusive jurisdiction to regulate the use of pipelines and the flaring of gas. The GPU Oil and Gas
27 Policies and Program L attempt to indirectly prohibit or impair subsurface operations by imposing
28 restrictive regulations, in direct contravention of applicable law.

1 82. Program L requires ongoing County evaluation of potential effects from well
2 stimulation treatment and thermal enhanced oil recovery. Program L is preempted by federal and
3 state law, providing that CalGEM has exclusive jurisdiction to regulate well stimulation treatment
4 and underground injection control. Under the federal Safe Drinking Water Act, the U.S.
5 Environmental Protection Agency has delegated primacy authority over oil and gas injection wells
6 to the CalGEM Underground Injection Control Program.

7 83. GPU Policy COS-7.2 requires setbacks from well heads to address air toxics produced
8 at the well head. This Policy is preempted, including by AB 2588, which requires a facility-specific
9 evaluation of air toxic risk posed to nearby residents and businesses. AB 2588 ensures appropriate
10 distances and control measures to minimize air toxic risks to nearby residents and businesses.

11 84. GPU Policy COS-7.4 attempts to require evaluations of well stimulation treatment
12 and enhanced oil recovery projects for seismic, groundwater, greenhouse gas emission, and other
13 impacts. This Policy is preempted, including by Senate Bill 4, codified in Pub. Res. Code. § 3150,
14 et seq. Senate Bill 4 explicitly directs CalGEM to promulgate extensive regulations governing well
15 stimulation treatments in California.

16 85. GPU Policy COS-7.5 requires restoration for oil and gas sites. GPU Policy COS-7.5
17 is preempted, including by California Code of Regulations, title 14, section 1776, which requires
18 well sites to be returned to as near a natural state as practicable within 60-days of plugging and
19 abandonment of any oil and gas well. Section 1776 also requires oilfield lease restoration to include
20 the removal of all tanks, above-ground pipelines, debris, and other facilities equipment.

21 86. GPU Policy COS-7.6 indicates that the County “shall evaluate discretionary
22 development to identify any abandoned oil and gas wells on the project site.” This Policy is
23 preempted, including by Public Resources Code section 3208.1, which establishes well re-
24 abandonment responsibility when a previously plugged and abandoned well will be impacted by
25 planned property development or construction activities. Section 3208.1 gives CalGEM the
26 authority to order or permit the re-abandonment of any well where it has reason to question the
27 integrity of the previous abandonment, or if the well is not accessible or visible.

1 87. GPU Policy COS-7.8 attempts to restrict flaring of natural gas on new wells except
2 for emergencies and testing. Policy COS-7.8 is preempted, including by state law that expressly
3 provides for flaring of natural gas (Pub. Res. Code §§ 3300, 3500-3503; 17 Cal. Code Regs.
4 §§ 95665-95677). This Policy is also preempted by Code of Federal Regulations, title 40, part 60,
5 subpart A, General Provisions, which regulates flares, including those at oil and gas facilities. Policy
6 COS-7.8 is further preempted by state regulations that cover measurement and reporting of flare
7 emissions. (See, e.g., 40 CFR Part 98 Mandatory Greenhouse Gas Reporting; 17 Cal. Code Regs.
8 Mandatory Greenhouse Gas Reporting).

9 88. By adopting the GPU Oil and Gas Policies, the County has acted unlawfully and
10 beyond the scope of its statutory and regulatory authority as set forth in California and federal law.

11 89. In adopting the GPU Oil and Gas Policies and Program L, the Planning Commission
12 and Board of Supervisors also failed to comply with its legal obligations under the Government
13 Code. The Planning Commission failed to conduct an independent review and recommendation of
14 the General Plan, as required by Government Code section 65354. The Board of Supervisors
15 substantially modified the General Plan by adding and modifying policies and mitigation measures
16 that were not previously considered by the Planning Commission, in violation of Government Code
17 section 65356.

18 90. The County has acted arbitrarily and capriciously and has abused its discretion.

19 91. WSPA has a beneficial interest in ensuring that the County does not enforce the GPU
20 Oil and Gas Policies that exceed its authority and are preempted by state and federal statutes. Several
21 of WSPA's members own and operate petroleum exploration and production operations in Ventura
22 County that are subject to the GPU Oil and Gas Policies.

23 92. WSPA is irreparably harmed by the County's adoption of the GPU Oil and Gas
24 Policies that exceeds its statutory authority and is preempted by state and federal law.

25 93. WSPA has no plain, speedy and adequate remedy at law to challenge the GPU other
26 than the relief sought herein. Without the resolution of these challenges, WSPA will be permanently
27 and irreparably harmed by implementation of the GPU.

1 94. Because the adoption of the GPU is quasi-legislative in nature and not adjudicatory,
2 Petitioners bring this action under Code of Civil Procedure section 1085. In the alternative, however,
3 Petitioners also seek a writ of mandate under Code of Civil Procedure section 1094.5 to the extent,
4 if any, that the Court concludes section 1094.5 is applicable here.

5 **FOURTH CAUSE OF ACTION**

6 **(Declaratory Relief)**

7 95. WSPA realleges and incorporates by reference the foregoing paragraphs as though
8 fully set forth herein.

9 96. Pursuant to federal and state law, the power and authority to regulate oil and gas
10 operations, methods, and procedures in California lies exclusively in the State of California,
11 including with CalGEM. The provisions of the GPU Oil and Gas Policies and Program L purport to
12 regulate, restrict, prohibit, and/or impair subsurface operations in the County, and are in direct
13 conflict with superior California law, including, without limitation, the sections of the California
14 Public Resources Code relating to oil and gas production, Senate Bill 4, CalGEM regulations, and
15 permits lawfully issued by CalGEM.

16 97. Respondents lack the power, authority, and jurisdiction to indirectly prohibit or impair
17 subsurface operations by imposing restrictive policies, as that power is exclusively a function of the
18 State of California. Moreover, the laws of the State of California preempt and fully occupy regulation
19 of the fields of drilling of oil and gas wells, well stimulation treatment, underground injection control,
20 enhanced oil recovery, well abandonment and re-abandonment, flaring, and restoration of oil and gas
21 sites. The provisions of the GPU Oil and Gas Policies purporting to regulate, restrict, prohibit, and/or
22 impair subsurface operations are preempted, in whole or in part, by federal and state law, and, as
23 such, are invalid and without effect.

24 98. The Planning Commission and Board of Supervisors failed to comply with its legal
25 obligations under the Government Code. The Planning Commission failed to conduct an
26 independent review and recommendation of the General Plan, as required by Government Code
27 section 65354. The Board of Supervisors substantially modified the General Plan by adding policies
28

1 that were not previously considered by the Planning Commission, in violation of Government Code
2 section 65356.

3 99. WSPA is informed and believes, and thereon alleges, that Respondents dispute the
4 contentions set forth above.

5 100. Judicial intervention in these disputes, and a declaration by the Court, is necessary to
6 resolve whether the adoption of the GPU is invalid under the Government Code and whether its Oil
7 and Gas Policies are preempted, in whole or in part, by federal and state law.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, WSPA prays for judgment and further relief as follows:

10 A. For alternative and peremptory writs of mandate, commanding the County:

- 11 a. To vacate and set aside approval of the GPU;
12 b. To vacate and set aside certification of the Final EIR for the GPU;
13 c. To prepare and certify a legally adequate EIR for the GPU;
14 d. To suspend any and all activity pursuant to the County's approval of the GPU that
15 could result in an adverse change or alteration to the physical environment until the
16 County has complied with all requirements of CEQA and all other applicable state
17 and local laws, policies, ordinances, and regulations as are directed by this Court
18 pursuant to Public Resources Code section 21168.9;

19 B. For interlocutory and permanent injunctive relief enjoining Respondents, and each of them,
20 from engaging in any activity pursuant to the GPU until the GPU complies with CEQA and
21 all other applicable state and local laws, policies, ordinances, and regulations;

22 C. For a declaratory judgment stating that the Ventura County Board of Supervisors violated
23 CEQA in approving the GPU;

24 D. For a declaratory judgment stating that the Ventura County Board of Supervisors' failure to
25 prepare, consider, and approve or certify an adequate environmental analysis under CEQA is
26 a prejudicial abuse of discretion.

27 E. For a declaratory judgment stating the GPU's policies are preempted, in whole or in part, by
28 federal and state law, and are invalid and without effect;

1 F. For a declaratory judgment stating that the Ventura County Planning Commission and Board
2 of Supervisors acted in violation of its obligations under the Government Code in approving
3 the GPU.

4 G. For WSPA's costs of suit incurred herein;

5 H. For attorney's fees pursuant to Code of Civil Procedure section 1021.5; and

6 I. For such other and further relief as the Court deems just and proper.
7

8 Dated: October 15, 2020

Respectfully submitted,

9 ALSTON & BIRD LLP
10 JEFFREY D. DINTZER
11 MATTHEW C. WICKERSHAM
12 GREGORY S. BERLIN
13 GINA M. ANGIOLILLO

14 By: 

Jeffrey D. Dintzer

15 Attorneys for Petitioner WESTERN STATES
16 PETROLEUM ASSOCIATION
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EXHIBIT A

ALSTON & BIRD

333 South Hope Street, 16th Floor
Los Angeles, CA 90071-1410
213-576-1000 | Fax: 213-576-1100

Jeffrey D. Dintzer

Direct Dial: 213-576-1063

Email: jeffrey.dintzer@alston.com

VIA CERTIFIED U.S. MAIL and E-MAIL

October 13, 2020

Ventura County and Ventura County Board of Supervisors
Attn: Mark A. Lunn, Ventura County Clerk-Recorder
Ventura County Government Center
Hall of Administration Building, Main Plaza
800 S. Victoria Ave.
Ventura, CA 93009-1260
clerk.recorder@ventura.org

Ventura County and Ventura County Board of Supervisors
Attn: Rosa Gonzalez, Chief Deputy Clerk of the Board
Ventura County Government Center
Hall of Administration Building, Fourth Floor
800 S. Victoria Ave.
Ventura, CA 93009-1940
clerkoftheboard@ventura.org

Re: Notice of Intent to Commence Action Against Ventura County and the Ventura County Board of Supervisors

Dear Ms. Gonzalez and Mr. Lunn:

PLEASE TAKE NOTICE, under Public Resources Code § 21167.5, that Petitioner and Plaintiff, Western States Petroleum Association, will file a Petition for Writ of Mandate and Complaint against Defendants and Respondents, County of Ventura and Ventura County Board of Supervisors, for failure to observe the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000, *et seq.*, and the CEQA Guidelines, California Code of Regulations § 15000, *et seq.*, in the administrative process that culminated in the County's September 15, 2020 decision to adopt the Ventura County 2040 General Plan Update ("GPU") and to certify the Environmental Impact Report for the GPU.

The relief that Petitioner intends to seek with the Petition for Writ of Mandate and Complaint includes, but is not limited to, the following:

- Alternative and peremptory writs of mandate, commanding Respondents:

Alston & Bird LLP

www.alston.com

Atlanta | Beijing | Brussels | Charlotte | Dallas | Fort Worth | London | Los Angeles | New York | Raleigh | San Francisco | Silicon Valley | Washington, D.C.

Notice of Intent to Commence Action Against Ventura County and the Ventura County Board of Supervisors

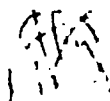
October 13, 2020

Page 2

- To vacate and set aside approval of the GPU;
 - To vacate and set aside certification of the Final EIR for the GPU;
 - To prepare and certify a legally adequate EIR for the GPU; and
 - To suspend any and all activity pursuant to Respondents' approval of the GPU that could result in an adverse change or alteration to the physical environment until the County has complied with all requirements of CEQA and all other applicable state and local laws, policies, ordinances, and regulations as are directed by this Court pursuant to Public Resources Code section 21168.9.
- For interlocutory and permanent injunctive relief enjoining Respondents, and each of them, from engaging in any activity pursuant to the GPU until the GPU complies with CEQA and all other applicable state and local laws, policies, ordinances, and regulations.
- For a declaration stating that the Ventura County Board of Supervisors violated CEQA in approving the GPU.
- For a declaration that the Ventura County Board of Supervisors' failure to prepare, consider, and approve or certify an adequate environmental analysis under CEQA is a prejudicial abuse of discretion.
- For a declaration that the GPU's policies are preempted, in whole or in part, by federal and state law, and are invalid and without effect.
- For Petitioner's costs of suit.
- For attorney's fees pursuant to Code of Civil Procedure sections 1021.5 and 1036.

If you have any questions regarding the above, please do not hesitate to contact me.

Sincerely,



Jeffrey D. Dintzer

PROOF OF SERVICE

I, Claudia Jimenez, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Alston & Bird LLP, 333 South Hope Street, Sixteenth Floor, Los Angeles, California, 90071.

On October 13, 2020, I served the document(s) described as **NOTICE OF INTENT TO COMMENCE ACTION AGAINST VENTURA COUNTY AND VENTURA COUNTY BOARD OF SUPERVISORS** on the following parties, as shown below:

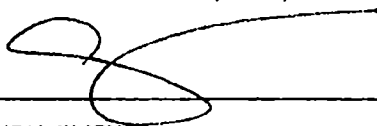
Ventura County and Ventura County Board of Supervisors
Attn: Mark A. Lunn, Ventura County Clerk-Recorder
Ventura County Government Center
Hall of Administration Building, Main Plaza
800 South Victoria Avenue
Ventura, CA 93009-1260

Ventura County and Ventura County Board of Supervisors
Attn: Rosa Gonzalez, Chief Deputy Clerk of the Board
Ventura County Government Center
Hall of Administration Building, Fourth Floor
800 S. Victoria Ave.
Ventura, CA 93009-1940

☒ BY CERTIFIED MAIL/RETURN RECEIPT REQUESTED: I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at 333 South Hope Street, Los Angeles, California, 90071 with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing *Via Certified Mail, Return Receipt Requested* with the United States Postal Service such envelope at Alston & Bird LLP, 333 South Hope Street, Los Angeles, California, 90071.

☒ [State] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 13, 2020, at Los Angeles, California.



CLAUDIA JIMENEZ

EXHIBIT B

1 JEFFREY D. DINTZER (State Bar No. 139056)
MATTHEW C. WICKERSHAM (State Bar No. 241733)
2 GREGORY S. BERLIN (State Bar No. 316289)
GINA M. ANGIOLILLO (State Bar No. 323454)
3 ALSTON & BIRD LLP
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4 Los Angeles, CA 90071-1410
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6

7 Attorneys for Petitioner WESTERN STATES
PETROLEUM ASSOCIATION
8

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF VENTURA**

11 WESTERN STATES PETROLEUM
ASSOCIATION, a California corporation,

12 Petitioner and Plaintiff,

13 v.

14 COUNTY OF VENTURA, a political subdivision
of the State of California; VENTURA COUNTY
15 BOARD OF SUPERVISORS; and DOES 1 through
20, inclusive,

16 Respondents and Defendants.
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Case No. _____

CEQA CASE

**NOTICE OF ELECTION TO
PREPARE ADMINISTRATIVE
RECORD**

[Pub. Res. Code § 21000, *et seq.*
(California Environmental Quality Act);
Code Civ. Proc. § 1085 (alternatively
1094.5)]

1 Pursuant to Public Resources Code § 21167.6(b)(2), Petitioner and Plaintiff, Western States
2 Petroleum Association, elects to prepare the administrative record of proceedings in the above-
3 captioned proceeding.

4
5 Dated: October 15, 2020

JEFFREY D. DINTZER
MATTHEW C. WICKERSHAM
GREGORY BERLIN
GINA M. ANGIOLILLO
ALSTON & BIRD LLP

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9 By: 

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11 _____
Jeffrey D. Dintzer

12 Attorneys for Petitioner WESTERN STATES
13 PETROLEUM ASSOCIATION
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EXHIBIT C

ALSTON & BIRD

333 South Hope Street, 16th Floor
Los Angeles, CA 90071-1410
213-576-1000 | Fax: 213-576-1100

Jeffrey D. Dintzer

Direct Dial: 213-576-1063

Email: jeffrey.dintzer@alston.com

VIA CERTIFIED U.S. MAIL

October 15, 2020

Attorney General Xavier Becerra
Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814-2919

Re: Notice to Attorney General

Dear Attorney General Becerra:

PLEASE TAKE NOTICE, under Public Resources Code § 21167.7 and Code of Civil Procedure § 388, that on October 15, 2020, Western States Petroleum Association, filed a verified petition for writ of mandate and complaint against the County of Ventura and Ventura County Board of Supervisors in Ventura County Superior Court.

A copy of the petition and complaint is attached to this notice.

Sincerely,



Jeffrey D. Dintzer

PROOF OF SERVICE

I, Claudia Jimenez, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Alston & Bird LLP, 333 South Hope Street, Sixteenth Floor, Los Angeles, California, 90071.

On October 15, 2020, I served the document(s) described **NOTICE TO ATTORNEY GENERAL** on the interested parties in this action by enclosing the document(s) in a sealed envelope addressed as follows:

Attorney General Xavier Becerra
Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814-2919

- ☒ BY CERTIFIED MAIL/RETURN RECEIPT REQUESTED: I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at 333 South Hope Street, Los Angeles, California, 90071 with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing *Via Certified Mail, Return Receipt Requested* with the United States Postal Service such envelope at Alston & Bird LLP, 333 South Hope Street, Los Angeles, California, 90071.
- ☒ I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 15, 2020, at Los Angeles, California.



CLAUDIA JIMENEZ